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Note by the Secretariat

Summary

The present note provides a brief account of the activities carried out by the Secretariat in facilitating an orderly and smooth transition of work from the Secretariat of the United Nations to the secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court, pursuant to General Assembly resolution 58/79 of 9 December 2003.

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I. Introduction

1. In its resolution 58/79 of 9 December 2003, the General Assembly, inter alia, welcomed the establishment of the Permanent Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court and recognized the need for an orderly and smooth transition of work from the Secretariat of the United Nations to the secretariat of the Assembly of States Parties.

2. The United Nations Secretariat ceased to act as the provisional secretariat of the Assembly of States Parties as at 31 December 2003 and in accordance with the above-mentioned resolution assisted in an orderly and smooth transition of work to the secretariat of the Assembly of States Parties. In addition to material transmitted previously to the Registrar of the Court, the Secretariat had facilitated the transfer of documents concerning the second session of the Assembly of States Parties, held in New York from 8 to 12 September 2003 and other material relevant with respect to assisting the secretariat of the Assembly of States Parties in its future work and, in particular, in preparations for the third session of the Assembly of States Parties, which was held in The Hague from 6 to 10 September 2004. There were also contacts between staff of the two Secretariats relating, in particular, to handover and preparatory organizational aspects.

3. The Secretariat has also taken steps to close trust funds administered by the Secretary-General relating to the establishment of the International Criminal Court and its subsequent activities.

II. Special fund established pursuant to General Assembly resolution 51/207 of 17 December 1996

4. Pursuant to General Assembly resolution 51/207 of 17 December 1996, the Secretary-General had established a special fund for the participation of the least developed countries in the work of the Preparatory Committee on the Establishment of an International Criminal Court and in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. The mandate of the trust fund was expanded by Assembly resolutions 53/105 of 8 December 1998 and 57/23 of 19 November 2002 to cover participation of the least developed countries in the work of the Preparatory Commission for the International Criminal Court and the Assembly of States Parties to the Rome Statute of the International Criminal Court.

5. In its resolution ICC-ASP/2/Res.6 of 12 September 2003, entitled "Establishment of a trust fund for the participation of the least developed countries in the activities of the Assembly of States Parties",[1] the Assembly of States Parties, inter alia, requested the Registrar of the Court to establish a trust fund under the authority of the secretariat of the Assembly of States Parties for the participation of the least developed countries in the work of the Assembly of States Parties and its subsidiary bodies. In paragraph 2 of the resolution, the Assembly of States Parties requested the Secretary-General to close the special trust fund established pursuant to General Assembly resolution 51/207 and to take the necessary steps to facilitate the transfer, as appropriate, of the funds remaining to the trust fund to be established under the authority of the secretariat of the Assembly of States Parties.

6. Between 1997 and 2001, 10 Governments and the European Commission had contributed US$ 853,252 to the trust fund. As at 30 June 2004, the balance in the trust fund was US$ 138,386. In July 2004, the Secretariat transmitted written communications to individual Governments that had contributed to the trust fund and the European Commission notifying them of the status of disposition of trust fund balances as at 30 June 2004, indicating amounts reimbursable pursuant to the Financial Regulations and Rules of the United Nations (ST/SGB/2003/7). A copy of the financial statement ending 30 June 2004 in respect of the trust fund was also transmitted.

7. However, in view of paragraph 2 of resolution ICC-ASP/2/Res.6, the Secretary-General also proposed to the contributors for approval, on a no-objection basis until 30 September 2004, the transfer of the sum that would be reimbursable to the Registrar for inclusion in the trust fund created by the Assembly of States Parties for a similar purpose. As at 1 October 2004, no notification was received by the Secretariat objecting to the steps proposed by the Secretary-General. Accordingly, the Secretariat intends to transfer any balances to the Registrar in accordance with resolution ICC-ASP/2/Res.6.

III. Trust fund established pursuant to General Assembly resolution 52/160 of 15 December 1997

8. Pursuant to General Assembly resolution 52/160 of 15 December 1997, the Secretary-General had established a trust fund for voluntary contributions towards meeting the cost of participation in the work of the Preparatory Committee on the Establishment of an International Criminal Court and the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, of developing countries not covered by the trust fund established pursuant to resolution 51/207. The mandate of the trust fund was expanded by Assembly resolution 53/105 to cover participation of the developing countries in the work of the Preparatory Commission for the International Criminal Court.

9. In 1998 and 1999, three Governments had contributed US$ 53,166 to the trust fund. As at 30 June 2004, the balance in the trust fund was US$ 34,385. In accordance with the Financial Regulations and Rules of the United Nations, the Secretariat intends to return the balance to the contributing Governments.

IV. Trust fund established pursuant to General Assembly resolution 56/85 of 12 December 2001

10. Pursuant to its resolution 56/85 of 12 December 2001, the General Assembly had requested the Secretary-General to undertake the preparations necessary to convene, in accordance with article 112, paragraph 1, of the Rome Statute of the International Criminal Court,[2] the meeting of the Assembly of States Parties to be held at United Nations Headquarters upon the entry into force of the Statute in accordance with article 126, paragraph 1, of the Statute. It also decided that expenses that might accrue to the United Nations as a result of the implementation of the request, as well as expenses resulting from the provision of facilities and services for the meeting of the Assembly of States Parties and any consequent

follow-up, should be paid in advance to the Organization, for which an appropriate mechanism would be set up. The Secretary-General established a trust fund for the purpose.

11. The Secretary-General convened the first session of the Assembly of States Parties to the Rome Statute of the International Criminal Court in September 2002 and funds from the trust fund were utilized for activities concerning the session, including the expenses for the provision of substantive and technical servicing by the United Nations Secretariat, which acted as the provisional secretariat.

12. On the basis of resolution ICC-ASP/1/Res.8 of 9 September 2002, entitled "Provisional arrangements for the secretariat of the Assembly of States Parties",[3] and General Assembly resolution 57/23, the trust fund was also utilized for activities concerning the first and second resumptions of the first session of the Assembly of States Parties held in February and April 2003, respectively, as well as the second session, held in September 2003.

13. In its resolution ICC-ASP/1/Res.15 of 3 September 2002, entitled "Crediting contributions to the United Nations Trust Fund to Support the Establishment of the International Criminal Court",[4] the Assembly of States Parties decided that contributions made by States to the trust fund should serve as a credit against future assessments against the budget of the Court.

14. Twenty-six Governments and one foundation contributed to the trust fund. As at 30 June 2004, the balance in the trust fund was US$ 2,028,747. In view of resolution ICC-ASP/1/Res.15, which had linked the operation of the trust fund to the budget of the Court, in August 2004, the Secretariat transmitted written communications to Governments that had contributed to the trust fund informing them that the Secretary-General would transfer the residual to the Registrar on 1 October 2004, to be administered by the Court in accordance with the Financial Regulations and Rules of the Court.[5] A copy of the final accounts ending 30 June 2004 in respect of the trust fund was also transmitted to the contributors and the Registrar of the Court.

Notes

[1] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Second session, New York, 8-12 September 2003* (United Nations publication, Sales No. 03.V.13), part IV.

[2] *Official Records of the United Nations Diplomatic Conference on Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

[3] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part IV, resolutions.

[4] Ibid.

[5] Ibid., part II.D.